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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FOURTH APPELLATE DISTRICT

DIVISION TWO

THE PEOPLE,

Plaintiff and Respondent,

v.

BOBBY LEWIS MOORE,

Defendant and Appellant.

E044021

(Super.Ct.No. FVA027321)

OPINION

APPEAL from the Superior Court of San Bernardino County. Michael A. Knish, Temporary Judge. (Pursuant to Cal. Const., art. VI, § 21.) Affirmed.

David K. Rankin, under appointment by the Court of Appeal, for Defendant and Appellant.

No appearance for Plaintiff and Respondent.

I

INTRODUCTION

On March 23, 2007, defendant and appellant Bobby Lewis Moore pleaded guilty to leaving the scene of an accident that caused injury to another person under Vehicle Code section 20001, subdivision (a), under the terms of a negotiated plea agreement. The plea agreement included a stipulated sentence of three years in state prison, to run concurrent to two other felony sentences. It also included a *Cunningham* waiver of defendant's right to have the jury find circumstances in aggravation to support the upper term. (*Cunningham v. California* (2007) 549 U.S. 270.) Moreover, under the terms of the plea agreement, an allegation that defendant committed the offense while on probation was to be dismissed.

On August 16, 2007, the trial court sentenced defendant to state prison for the stipulated three years and dismissed the Penal Code section 12022.1, subdivision (f), allegation that defendant committed the offense while on probation. By stipulation between defendant and the prosecution, the trial court awarded defendant 784 days of presentencing custody credit, 392 actual days, and 392 conduct credits. The trial court ordered defendant's sentence to run concurrent to the prison sentences in two other cases, which the court also imposed that day. Those cases were before the trial court on admitted probation violations. The trial court also ordered defendant to pay a \$220 restitution fine and imposed an identical parole revocation fine, which was stayed pending successful completion of parole.

On August 20, 2007, defendant personally filed a timely notice of appeal challenging the sentence and the validity of the plea in the current case only. His notice of appeal, however, did not designate the probation revocation cases in which he was sentenced to state prison concurrently. In his request for certificate of probable cause, defendant alleged that he was denied effective assistance of counsel and due process because his “rights and acknowledgements [*sic*] were not waive[d] or read to [him] per [R]ules of [C]ourt.” On August 24, 2007, the trial court issued a certificate of probable cause.

II¹

STATEMENT OF FACTS

On July 19, 2006, defendant was seen driving a car on a residential road in San Bernardino County. A witness, who was working in her yard, heard the sound of a collision and saw defendant’s car drive away, leaving a pedestrian lying injured in a yard. After the accident, another driver heard sirens. The driver then observed defendant abandon his car in the roadway. The car continued to move until it struck a curb, crossing the roadway, and finally coming to a stop on a lawn. After the incident, the windshield of the car driven by defendant was shattered “in the shape of a body.”

¹ The parties stipulated to the preliminary hearing for a factual basis for defendant’s plea. Therefore, the statement of facts is based on the transcript from the preliminary hearing.

III

ANALYSIS

After defendant appealed, and upon his request, this court appointed counsel to represent him. Counsel has filed a brief under the authority of *People v. Wende* (1979) 25 Cal.3d 436 and *Anders v. California* (1967) 386 U.S. 738 setting forth a statement of the case, a summary of the facts, and potential arguable issues and requesting this court to undertake a review of the entire record.

We offered defendant an opportunity to file a personal supplemental brief; he has not done so.

We have now concluded our independent review of the record and find no arguable issues.

IV

DISPOSITION

The judgment is affirmed.

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RICHLI

Acting P. J.

We concur:

GAUT

J.

MILLER

J.